IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

WP(C).No. 23553 of 2007(D)

PETITIONER:

P.V.NARAYANAN, S/O ANDY,
HINDUSTAN ENGINEERING WORKS,
THANKAKUNNU.

BY ADV. SRI.A.K.ABDUL AZEEZ

RESPONDENTS:

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1. THE SALES TAX OFFICER,
IIND CIRCLE, KANNUR.

2. THE ASSISTANT COMMISSIONER,
(ADMT) II, SPECIAL CIRCLE,
COMMERCIAL TAX, KANNUR.

3. TAHSILDAR R.R., KANNUR.

4. THE DISTRICT COLLECTOR,
KANNUR.

BY GOVERNMENT PLEADER SRI.SREEKRISHNA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.23553 of 2007

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Dated this the 19th day of September, 2007.

JUDGMENT

The W.P. is filed for direction to the respondents to withhold recovery proceedings to enable the petitioner to restart the industry. Government Pleader has filed a detailed statement from the Tahsildar showing the recoveries and balance liability due from petitioner under various revenue recovery proceedings already initiated. It is seen that over Rs.32 lakhs is recovered and adjusted towards arrears of sales tax which is by sale of petitioner's property which is a residential building. A sum of Rs.51,000/- was recovered and adjusted against Excise arrears and Telephone bills. Similarly Rs.15,36,900/- was recovered and adjusted against Bank loan. Balance arrears of sales tax due is above Rs.49 lakhs and Excise arrears and Telephone arrears is above Rs.3 lakhs and arrears of Bank loan is above Rs.10 lakhs. The petitioner's contention is that if time is granted, petitioner will settle liability by himself. So far as sales tax liability is concerned, it is contended that much of the liability is contested in appeal as demand is raised after closure of unit. Since petitioner has a scheme for revival, there will be direction to the appellate or revisional authority to dispose of all

pending appeals or revisions at the earliest and in any case within thirty days from date of production of copy of this judgment. The petitioner will co-operate in the matter by appearing on the date of posting given by the appellate/revisional authority. If any exparte assessment is made, there will be direction to the Assessing Officer to reconsider the matter if petitioner files rectification application with proof of closure of unit such as disconnection and dismantling of electric supply or such concrete evidence and pass fresh orders thereon. The petitioner can also negotiate with the Bank for rescheduling of loans or for granting extension of time on such terms as the petitioner and Bank may agree upon. Similarly petitioner can apply to BSNL or Exchange authorities for granting extension of time or instalment facility. So far as arrears of sales tax is concerned, there will be direction to the third respondent to withhold recovery proceedings for six weeks from now within which time first respondent will give final statement of liability after granting consequential relief based on orders in appeal/revision etc. If petitioner offers payment within reasonable time and makes proposal to the 4th respondent for settlement of sales tax liability within six weeks from now, the 4th respondent is free to grant further time to the petitioner to settle liability voluntarily and permit the petitioner to restart the industry. So far as Bank loan and other liabilities are concerned,

if petitioner gets extension of time from the concerned authority, the third respondent will withhold recovery proceedings for the same. Recovery proceedings will continue after six weeks if petitioner's proposals are not acceptable to the respondents and other creditor agencies.

W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms